

FILED

APR 12 2018

Clerk, U S District Court
District Of Montana
Billings

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,	CV 17-141-BLG-SPW-TJC
Plaintiff,	
vs.	FINDINGS OF FACT,
\$78,058.62 in U.S. Funds,	CONCLUSIONS OF LAW,
Defendant.	DEFAULT JUDGMENT, AND
	ORDER OF FORFEITURE

This matter is brought before this Court by Plaintiff, United States, by and through its attorney, Victoria L. Francis, Assistant U.S. Attorney for the District of Montana. The United States has filed a Motion for Entry of Default Judgment and Order of Forfeiture (Doc. 13) pursuant to Fed. R. Civ. P. 55(b)(2). Upon considering the pleadings filed herein, the Court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On October 20, 2017, the United States instituted a judicial forfeiture action by filing in this cause a Verified Complaint *in Rem* against the defendant funds in the amount of \$78,058.62, to forfeit property under 18 U.S.C. §§

981(a)(1)(C) and 1343 (wire fraud) asserting the defendant funds were proceeds constituting or derived from proceeds traceable to an offense constituting “specified unlawful activity” as defined in 18 U.S.C. 1956(c)(7). (Doc. 1)

2. On October 25, 2017, the United States Marshal Service executed the Warrant of Arrest *in Rem* (Doc. 4) that was issued by this Court on October 25, 2017, and arrested the defendant funds. (USM-285, Doc. 5).

3. On October 23, 2017, the United States provided “actual notice” of this civil asset forfeiture action by mailing the Notice of Complaint for Forfeiture and Verified Complaint In Rem (Doc. 3) to Reva Gardner and her Attorney, D. Michael Eakin, via first class U.S. mail and Certified mail to the addresses provided in her administrative claim.

4. Notice of this forfeiture action was also provided to any and all unknown potential claimants by publishing on the government’s asset forfeiture website the Notice of Forfeiture Action for 30 consecutive days, beginning on November 1, 2017, and ending on November 30, 2017. The “Notice of Forfeiture Action” provides in pertinent part as follows:

Any person claiming a legal interest in the Defendant Property must file a verified Claim with the court within 60 days from the first day of publication (November 1, 2017) of this Notice on this official government internet web site and an Answer to the complaint or motion under Rule 12 of the Federal Rules of Civil Procedure within 21 days thereafter. . . .

(Dec. of Publication, Doc. 9, Att. 1).

5. Upon considering the United States' Motion for Entry of Default of Known Potential Claimants (Doc. 6), and the United States' Motion for Entry of Default of Unknown Potential Claimants (Doc. 10), the Clerk of District Court entered the default of Reva Gardner, on November 30, 2017, (Doc. 8) and the default of any and all unknown potential claimants, on January 3, 2018, (Doc. 12) for failure to timely file a verified claim and/or to answer or otherwise defend as required by the Supplemental Rules.

6. The factual allegations set forth in paragraphs 1 through 64, Doc. 1 are verified by John Teeling, Special Agent for the Federal Bureau of Investigation. (Doc. 1, pg. 27)

Based upon the foregoing findings of fact, the Court makes the following conclusions of law.

CONCLUSIONS OF LAW

7. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355(a). The United States has filed a Verified Complaint for Forfeiture *in Rem* to forfeit the defendant property under 18 U.S.C. § 981(a)(1)(C) and 1343, as proceeds constituting or derived from proceeds traceable to an offense constituting "specified unlawful activity" as defined in 18 U.S.C. 1956(c)(7).

8. Pursuant to 28 U.S.C. §§ 1355(b)(1)(A) and 1395(b) or (c), venue is proper in this district because this is a civil proceeding to forfeit United States Funds found in this district, and the acts or omissions complained of occurred in this district.

9. Civil forfeitures are governed by the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure. *United States v. 2659 Roundhill Drive*, 283 F.3d 1146, 1149 n.2 (9th Cir. 2002).

10. The Verified Complaint for Forfeiture *in Rem* sets forth detailed facts to support a reasonable belief that the United States will be able to meet its burden of proof at trial as required by Supplemental Rule G(2)(f), to support probable cause, and to provide proof by a preponderance of the evidence to seize and arrest the defendant funds described in the verified complaint. The facts contained in the verified complaint support the institution of these forfeiture proceedings for a knowing and willful violation of 18 U.S.C. §§ 981(a)(1)(C) and 1343.

11. The totality of circumstances as set forth in the Verified Complaint *in Rem*, demonstrates that there is a substantial connection that the defendant funds were proceeds constituting or derived from proceeds traceable to an offense constituting “specified unlawful activity” as defined in 18 U.S.C. 1956(c)(7).

12. Notice of this action was properly provided to known potential claimant, Reva Gardner, by providing “actual notice” to her, and her counsel, by mailing the Verified Complaint *In Rem*, in accordance with Supplemental Rule G(4)(b)(v).

13. Notice by publication was also provided to any and all unknown potential claimants in accordance with Supplemental Rule (G)(4)(a)(iv)(C).

14. In accordance with Fed. R. Civ. P. 55(a) and Supplemental Rules A(2) and G(5), the Clerk of District Court properly entered the default of Reva Gardner (Doc. 8), and any and all unknown claimants (Doc. 12).

15. Pursuant to Fed. R. Civ. P. 55(b)(2), the United States is entitled to a judgment of default against the defendant funds in the amount of \$78,058.62, and any claims to the defendant funds.

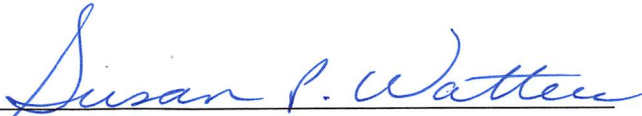
16. The United States is further entitled to an order of forfeiture of the defendant funds in the amount of \$78,058.62.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The United States is granted a default judgment against the defendant funds in the amount of \$78,058.62 and against any person asserting a claim to, or interest in, the defendant funds.

2. The defendant funds consisting of \$78,058.62 is hereby forfeited to the United States and shall be disposed of in accordance with the law.

DATED this 12th day of April, 2018.



SUSAN P. WATTERS
United States District Judge